

**DECISION**

24886  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-207304

**DATE:** April 15, 1983

**MATTER OF:** V. Stephen Henderson -Relocation  
Expense - Paving Lien

**DIGEST:**

An employee was required to pay off a paving lien placed on his residence by the City of Gallup, New Mexico, when he sold his residence incident to his transfer from Gallup to Rock Springs, Wyoming. Since the paving lien was placed on the property because of improvements made to street adjacent to the property it may not be reimbursed under the Federal Travel Regulation. It is analogous to a capital improvement to the property itself, and will be treated in the same manner.

Mr. Posey B. Howell, a certifying officer with the Geological Survey, United States Department of the Interior, has requested an advance decision as to whether Mr. V. Stephen Henderson may be reimbursed \$1,181.17 for a paving lien which was paid off incident to the sale of his residence. Since the paving of the street adjacent to Mr. Henderson's property is analogous to a capital improvement to the property, there is no basis for him to be reimbursed for this cost.

Mr. Henderson, an employee of the Geological Survey, was transferred from Gallup, New Mexico to Rock Springs, Wyoming. Upon the sale of his residence in Gallup, Mr. Henderson incurred the \$1,181.17 expense for the payoff of a paving lien which had been filed by the City of Gallup. We have been informally advised that the lien was filed incident to work done to pave the roadway next to the Henderson residence. Mr. Henderson seeks reimbursement for the paving lien because it is customarily required of sellers that they pay off paving liens at the time they sell their property. Mr. Henderson's attorney further explained the nature of the paving lien and how it came to be filed on Mr. Henderson's property as follows:

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"\* \* \* Mr. Henderson purchased the home from Wellington R. and Virginia M. Meier in 1979. At that time, the Meiers did not pay off the paving lien as a result of special negotiations. The Meiers were originally asking a purchase price of \$66,000.00 for the home. As part of the negotiations for the purchase price of the home, Mr. Henderson agreed to assume the obligation to pay the paving lien which at that time was \$1,149.13. In other words, Mr. Henderson agreed to assume the paving lien as part of a reduction in the overall purchase price. In addition, I understand he was agreeable to assuming the lien since it was at a lower interest rate than the market rate.

"In addition, I would like to add that the paving lien which was paid off at the time Mr. Henderson sold the home is not a tax of any kind whether it be state, city, personal or real estate. The lien was not based on the value of the property but on the frontage footage and was assessed to all persons on that street and not as a matter of choice. Since it is customarily required of sellers in Gallup that they pay off such paving liens prior to the sale of their property and since the purchaser of Mr. Henderson's home requested such a payoff, Mr. Henderson was without any choice in this matter. It was necessary for him to pay off the paving lien in order to sell his home and transfer to Rock Springs, Wyoming."

Although Mr. Henderson was required to pay off the paving lien before he could sell his residence, his attorney's statement makes clear that the lien was placed on the property because of an improvement made adjacent to that property. Expenses of capital improvements are not reimbursable under the Federal Travel Regulations (FPMR 101-7) (May 1973) (FTR). An employee will usually recover the cost of capital expenses upon the sale of his residence. In any event, capital improvements are analogous to operating and maintenance costs which are not reimbursable under FTR para. 2-6.2d. See Ganesh C. Bhuyan, B-202906, September 15, 1982, in which we

held that the cost of repairs made to a residence which were necessary to allow the residence to pass a mandatory inspection are not reimbursable under the travel regulations.

Mr. Henderson's basic argument seems to be that since he was required to pay this paving lien, and it was customary for sellers in Gallup to satisfy such liens prior to sale he should be reimbursed. That, however, is not the standard of the FTR. In order to be reimbursed a basis in the statute or regulations must first be found, then it must be determined whether it is customary in the area for the expense to be paid, and whether the amount claimed is reasonable.

The expense involved here was a charge assessed against homeowners when the street in front of their homes was paved. The charge became a lien assessed by the municipality to assure payment. The amount of the charge was based upon the length of the frontage of each lot on the street. Paving of a street generally will increase the value of properties on the street, just as putting a new roof on a home would increase its value. Thus, even though the lien was not for an improvement made directly on Mr. Henderson's property, it had the same effect and will be treated in the same manner as would an improvement to the property itself.

In view of the above, Mr. Henderson may not be reimbursed for the cost of paying off the paving lien on his house.

*for* *F. H. Barclay Jr.*  
Comptroller General  
of the United States